



# STATE OF INDIANA

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July 13, 2009

Todd Whitehurst  
202 West Berry Street, Suite 610  
Fort Wayne, Indiana 46802

*Re: Informal inquiry 09-INF-21 regarding the City of Jonesboro*

Dear Mr. Whitehurst:

This advisory opinion is in response to your informal inquiry dated June 25, 2009. Pursuant to Ind. Code § 5-14-4-10(5), I issue the following opinion in response to your inquiry.

## BACKGROUND

You write regarding the City of Jonesboro ("City") and its adherence to the requirements of the Open Door Law ("ODL") (Ind. Code 5-14-1.5). You allege that on April 8, 2009 you requested a hearing for your client. You did not hear back from the City but later learned the City held a hearing on April 9. You allege the City violated the ODL by failing to provide proper notice.

My office sent a copy of your correspondence to the City and invited the City to respond to the allegation. To date my office has not received a response from the City.

## ANALYSIS

It is the intent of the ODL that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. I.C. § 5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. I.C. § 5-14-1.5-3(a).

Executive sessions are authorized by section 6.1 of the ODL. Notice of an executive session as well as that of a regular public meeting must be posted 48 hours in advance of the meeting, excluding Saturdays, Sundays, and legal holidays. I.C. § 5-14-1.5-5(a). In addition to providing notice to the news media who by January 1 have

requested notice, the agency shall post notice at the principal office of the agency holding the meeting. I.C. § 5-14-1.5-5(b). If there is no office, notice shall be posted at the building where the meeting is to be held. I.C. § 5-14-1.5-5(b).

Here, you allege the City did not provide sufficient meeting notice for the April 9, 2009 hearing regarding your client's employment. Nothing in the ODL requires the City to have notified you or your client directly. If this is the nature of your complaint, the City has not violated the ODL. Regardless of whether the meeting was a public meeting or an executive session, notice should have been provided 48 hours in advance by posting notice at the agency's principal office and by delivering notice to any news media who have requested such. See I.C. § 5-14-1.5-5. If the City did not post notice of the April 9 hearing, the City violated the ODL's notice provisions.

#### CONCLUSION

For the foregoing reasons, it is my opinion the City of Jonesboro did not violate the ODL if it failed to notify you or your client of the hearing but did violate the ODL if it failed to post notice at the agency's principal office and/or failed to provide notice to any news media who have requested such notices.

Best regards,



Heather Willis Neal  
Public Access Counselor

Cc: Mayor Jay Akers